

	<p style="text-align: center;">Science, Education and Innovations in the Context of Modern Problems</p> <p style="text-align: center;">Issue 12, Vol. 8, 2025</p> <hr/> <p style="text-align: center;">RESEARCH ARTICLE </p> <hr/> <p style="text-align: center;">Child Protection in Ancient Eastern and Western Legal Civilizations: A Comparative Juridical Analysis of Marriage, Lineage, Guardianship, and Child Rights</p>
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<p>Abstract</p> <p>This research provides a comparative legal-historical analysis of child protection mechanisms in ancient Eastern civilizations—specifically Mesopotamia and Pharaonic Egypt—and Western civilizations, represented by Greece and Rome. The study emphasizes the role of marriage as a foundational juridical institution for legitimizing procreation, stabilizing family structures, and securing rights related to lineage, guardianship, inheritance, and personal identity. Drawing upon archeological records, temple-archived marital documents, Hammurabi’s Code, the Egyptian Book of the Dead, Athenian civic laws, and Roman family statutes including the Twelve Tables, the analysis traces how conceptions of childhood and parental authority were institutionalized within different civilizational paradigms. Eastern legal cultures generally positioned children as protected members of the family-community nexus, with explicit prohibitions on infanticide, strict sanctions against illegitimacy, and obligations of childcare including breastfeeding, medical attention, and educational instruction for both genders. Western systems, by contrast, granted extensive paternal authority, often enabling practices such as exposure of infants, selective infanticide, and conditional recognition of lineage based on paternal acceptance. Despite these divergences, all civilizations shared the principle that lawful marriage produced legally protected children, gradually shifting paternal discretion into codified normative frameworks. The findings demonstrate that early Eastern systems advanced more holistic protections independent of class and gender, while Western legal traditions often subordinated children’s rights to patriarchal sovereignty and citizenship selection. In conclusion, the article argues that ancient legal mechanisms—despite their limitations—represent foundational precursors to modern child protection doctrines, offering valuable insights into contemporary legal debates over familial autonomy, reproductive legitimacy, and state-regulated child welfare.</p>	
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1. Introduction

The child has consistently been regarded as the future cornerstone of society and the bedrock upon which any civilization is built. This recognition has prompted the international community to prioritize child protection within its human rights frameworks, acknowledging that childhood represents critical phase for holistic human development. Such development, however, can only be achieved through the institutionalization of rights that safeguard the child’s physical integrity and moral well-being.

The child protection is not a modern innovation but rather an evolution of rights codified in ancient legal systems, which first recognized the child's pivotal role in societal advancement. These systems thus encompassed a spectrum of child-centric rights. Nonetheless, the prevailing patriarchal paradigms of antiquity often constrained the child's enjoyment of these rights, as parental authority –particularly paternal- was frequently absolute. This disparity in protection among ancient legal traditions contrasts sharply with contemporary international instruments, which standardize child protection under universal norms.

Under modern Western legal frameworks, the child is conceptualized as a shared responsibility between the family –as the primary custodian- and the state, which retains supervisory authority. This dual governance model operationalizes state intervention in cases of rights violations, particularly concerning the child's security, welfare, and developmental needs.

Ancient legal systems similarly prioritized marriage as the foundational institution for family formation and procreation, thereby fortifying familial bonds-dynamic that indirectly enhanced child protection. This nexus between marriage and child rights warrants a systematic examination of how ancient Eastern and Western legal traditions addressed child protection, tracing the child's rights from conception within marriage to their legal entitlements thereafter.

This study aims to evaluate the scope and efficacy of child protection in ancient Eastern and Western legal systems, with particular emphasis on juridical implications of marriage and corresponding rights accorded to the child. Given that childhood constitutes the most formative stage of human development, it is imperative to acknowledge the pioneering role of ancient legal systems in establishing child rights –wherein marriage served as the primary mechanism for securing a child's fundamental entitlements from birth.

However, certain ancient civilization conditioned a child's rights upon specific socio-legal criteria raising critical questions about the actual effectiveness of these protections. Then, the question to answer is how effective is the protection provided by ancient legislative systems, both eastern and western, for child and his rights?

To address this, the study proceeds with the following sections.

2. Aspects of Child Protection in Ancient Legal Systems

Early human societies lacked formalized social structures and operated under fluid kinship norms, wherein sexual relations were not bound by exclusivity. In such contexts, paternity was often indeterminate, and kinship ties were primarily traced through maternal lines. Consequently, children were considered members of their maternal tribe or clan rather than being tied to a specific father.

However, the progress development of legal systems played a pivotal role in regulating marital relationships and instituting structured family units. Through codified norms—such as marriage contracts, dowry laws, and legitimacy statutes—societies transitioned toward monogamous or polygamous unions, wherein childbirth within marriage became the primary legitimate means of procreation. This shift –the institutionalization of marriage- not only reinforced paternal recognition but also established a legal framework for child protection, while simultaneously reflecting broader juridical advancements in ancient civilizations as aspects of child protection.

2.1. Marriage as a Fundamental of Child Protection in Ancient Legal Systems

Marriage originated as a customary practice among ancient societies, initially lacking formal legal regulation. Over time, it underwent systematic development, evolving into a distinct socio-legal institution that was subsequently integrated into successive legal frameworks, thereby transforming marriage into the foundational mechanism for child protection.

2.1.1. Marriage in Ancient Eastern Legal Systems

In Mesopotamian legal tradition, marriage was institutionalized as the cornerstone of familial structure, fundamentally procreation and lineage continuity serving as primary objectives. The legal marital union was formalized through a religious contract, registered by priests in temples in the presence of both spouses and

witnesses. This legal framework was designed to safeguard the rights of spouses, especially those of children, in instances of disagreement or divorce.

Just about one-quarter of Hammurabi's code was devoted to regulating familial issues, including marriage, adoption, and inheritance¹. Article 128 explicitly stipulated:

"If a man takes a woman without a written or orally agreed-upon contract, she shall not be recognized as his wife".

Regarding the spousal consent, juristic interpretations varied. Some legal texts require the bride's explicit consent, while others deemed guardian approval sufficient³. In addition, Mesopotamian law prohibited incestuous unions, restricting marriages among consanguinal and affinal relatives, though collateral kinship was generally permitted⁴.

In pharaonic Egypt, societal norms and legal traditions prompted early marriage⁵, and encouraged high fertility rates to maintain demographic stability and social cohesion. Marriage was regarded as the sole legitimate means of forming a union between men and women, with adultery subject to severe penalties, including execution by burning, drowning, or slaughter—punishments applied to both the adulterous wife and her accomplice⁶.

Two predominant opinions emerged concerning the enactment of marriage: 1) One view held that marriage could be validly contracted orally, requiring the husband's consent and the bride's guardian's approval without needing written documentation or priestly involvement. 2) A second view asserted that marriage required a formal written contract executed in a temple before witnesses and a priest⁷.

Many jurists favored the second view regarding the legitimacy of the marriage, arguing that temple-sanctioned, documented marriages provided stronger legal protections for wives and children. While written contracts were not an absolute requirement for marital validity, they functioned as critical evidentiary tools to ascertain and enforce spousal and children's rights, attending their protection⁸.

2.1.2. Marriage in Ancient Western Legal Systems

In ancient Greek society, marriage regarded as both civic and personal duty, centered on monogamous unions⁹. This legal marriage aimed at engendering legitimate children. Men typically married at age thirty, with a legal preference for being ten years older than their brides, though this rule was often overlooked. Women, conversely, were given in marriage by their fathers, brothers, uncles, or legal guardians¹⁰.

In the Roman legal system, the family apprehended prevailing importance, reflecting its significance in Eastern and Greek traditions. The Twelve Tables codified familial regulations, establishing a legal framework for marriage¹¹. Legislating a marital union required specific conditions, the most imperative being parental consent. If the groom lacked a paternal guardian, he assumed legal autonomy; however, a woman could not marry without the approval of her closest male guardian. Over time, the requirement changed, and mutual consent between the man and woman was sufficient for marriage, provided they had reached puberty, as evidenced by physical maturity. Afterward, the legal marriageable age was set at twelve for girls and fourteen for boys.

Eligibility for marriage was further governed by the absence of legal impediments, including:

- Social class incompatibility¹².
- Kinship and affinal impediments.
- Prior marital bonds (e.g., polygamy was forbidden, and women were prohibited from remarrying during the tempus lugendi (mourning period)).
- Adultery-related restrictions (e.g., if a man married a woman who had borne him children prior to their union, such children were deemed illegitimate, and the mother faced criminal penalties under laws).¹³

Paternity acknowledgment was frequently explicitly postulated in marriage contracts, as Roman society recognized that its continuity depended on family formation and procreation¹⁴.

3. The Rights Conferred upon Child through Marriage in Ancient Legal Systems

In early antiquity, child was deprived of specific rights as formal legal recognition or protections, and infanticide and child neglect were not exceptional, frequently driven by economic hardship or social stigma as well other factors. This reflected a broader societal disregard for child's legal personhood, as no regulated frameworks existed to defend his rights.

Nevertheless, as human societies developed, mainly with the advent of structured legal systems—such as those in Mesopotamia and Pharaonic Egypt in the East, and Greece and Rome in the West—the status of children began to shift. These successive legal traditions profoundly influenced the early recognition of child's fundamental rights. The development of these rights, as embedded within marital and familial laws, will be examined in detail in the following discussion.

3.1. The Rights conferred upon Child in Eastern Ancient Legal Systems

In Mesopotamia and ancient Egypt legal traditions, child protection was a crucial concern, with laws designed to elevate children's social and legal status.

3.1.1. The Right to Life

Babylonian legal traditions prohibited abortion to ensure demographic continuity and protect the unborn child's right to life. Pregnant women received significant legal protections:

- If a woman suffered a miscarriage without fault, she was entitled to financial compensation.
- The perpetrator of an unlawful abortion was required to pay a fine to the state and sentenced to one month of hard labor.
- A woman who intentionally induced an abortion faced public defamation and corporal punishment. If she died as a result, she was deemed ritually impure, and no funeral rites were performed on her¹⁵.

In ancient Egypt families, high fertility rates and a cultural emphasis on child-rearing reduced abortion attempts. Abortion was rigorously prohibited¹⁶, except for therapeutic reasons as determined by physicians—a practice for which Egyptians were pioneers¹⁷. Prenatal care was prioritized:

- Egyptians believed the fetus derived nourishment from the mother, leading to strict dietary and healthcare regimens for pregnant women¹⁸.
- The fetus was granted legal protection; pregnant women convicted of crimes were spared execution until after childbirth¹⁹, as the unborn child was considered innocent²⁰.
- Infanticide was categorically prohibited, unlike in many legal traditions, where fathers held the right to kill newborns—particularly female infants. In Egypt, raising children, regardless of gender, was a deeply ingrained cultural norm, symbolizing the renewal of life²¹.

3.1.2. The Right to Lineage and Naming

In Mesopotamian legal and cultural traditions, preserving a child's identity was of central importance, primarily through the act of naming. The belief that “a child without a name was legally and socially nonexistent” accentuated the significance of this practice²². Parents were obligated to select an auspicious name for their child, as it symbolized existence and social recognition. To validate a child's identity, Mesopotamians documented birth through distinctive procedures:

- **Footprint Impressions:** A newborn's feet were pressed into damp clay or mud tablets, alongside the inscription of the child's name and their father's name.
- **General Application:** This practice applied to all children, regardless of gender or social class, guaranteeing equivalent recognition in the law.

This served as legal proof of lineage and protected against child swapping or kidnapping²³.

In ancient Egypt, naming conventions were similarly substantial in forming a child's identity and legal personality:

- **Maternal Naming:** It was customary for the mother to name the child immediately after birth²⁴.
- **Dual Naming Mode:** Children typically had two names: 1) A formal name, registered in legal and administrative documents. 2) A informal name, used in daily life to evade the burdensome articulation of formal names²⁵.

3.1.3. The Right to Healthcare

a. Mesopotamian Healthcare Practices: Breastfeeding was considered necessary for a child's early growth in Mesopotamia:

- **Maternal Duty:** Mothers were legally and socially expected to breastfeed their children. If incapable to do so, they could hire wet nurses, though this carried jeopardies:
- . **Negligence Apprehensions:** A wet nurse might be unsuccessful to provide sufficient milk or care for multiple children without parental knowledge.
- . **Legal Concerns:** Hammurabi's Code (Article 194) imposed severe penalties for negligence:

*"If a man entrusts his child to a wet nurse and the child dies in her care, and it is proven that she took on a second child without the parents' consent, she shall be convicted, and her breasts shall be cut off"*²⁶.

This prevented negligence and guaranteed responsibility.

- **Parental Responsibilities:** Parents were obligated to seek medical and spiritual care for their children:
- . **Illness Treatment:** Sick children were taken to priests and physicians²⁷.
- . **Psychological Stability:** Families prioritized emotional well-being, though orphaned or abandoned children faced legal protections under Hammurabi's Code: **Prohibition of Disownment:** Parents could not legally disown a child without just cause as repeated grave transgressions. **Article 168-169:** A father could only disown a son after multiple serious offences, ensuring children retained paternity rights unless necessary²⁸.

b. Egyptian Healthcare Practices: Egyptian society prioritized child health, combining medical, dietary, and spiritual care:

- **Breastfeeding Norms:** 1) *Breastfeeding Duration:* Mothers breastfed for up to three years, believing it fortified immunity and protected against disease. 2) *Avoidance of Alcohol:* Mothers desisted from wine to maintain their milk's pureness²⁹. 3) *Continuous Care:* Mothers kept infants close, even bringing them to work for regular breastfeeding.
- **Alternative Feeding:** If a mother could not breastfeed (due to illness or death), wet nurses or caregivers were employed³⁰, even for royal children³¹.
- **Disease Prevention and Treatment:** 1) *Medical Advances:* Physicians developed remedies for teething pain, coughs, and intestinal illnesses³². 2) *Spiritual Protections:* Amulets and spells were used to ward off evil spirits believed to cause illness³³. 3) *Hygiene Practices:* **Bathing:** Unlike some cultures, Egyptians bathed infants regularly, believing cleanliness prevented disease. **Haircare:** Short haircuts were given to strengthen the scalp through sun exposure. **Moderate Eating:** Children were taught restrained eating habits to prevent digestive issues. **Circumcision:** Practiced among the elite, likely for hygienic or ritual purposes³⁴.

3.1.4. The Right to Education and Learning

a. Mesopotamian Educational Practices: Mesopotamians prioritized early education to cultivate virtuous, skilled citizens by these manners:

- **Moral and Religious Instruction:** Children were taught ethical values—honesty, modesty, and virtue—from a young age.
- **Custody and Guardianship:** This can be summarized in two points:
 - . **Paternal Authority:** Fathers retained indefinite custody, though mothers or elder male relatives assumed responsibility in the father's absence³⁵.
 - . **Vocational Training:** Children were apprenticed to artisans or sent to scribal schools, depending on family wealth:
 - 1) *Poor Families:* Children entered the workforce early.
 - 2) *Wealthy Families:* Children received formal education, preparing them for administrative or priestly roles³⁶.

b. Egyptian Educational Practices: In Pharaonic Egypt, education was a familial and societal duty:

- **Parental Roles:** 1) *Maternal Influence:* Mothers supervised early education³⁷, while fathers assumed greater responsibility as children aged³⁸. 2) *Marital Harmony:* A husband's kindness to his wife was believed to foster a stable learning environment for children³⁹.
- **Disciplinary Methods:** 1) *Corporal Punishment:* Fathers used beating, reprimands, or disownment to correct misbehavior, as Egyptian wisdom literature⁴⁰ (e.g., Teachings of Amenhotep) endorsed disciplined upbringing⁴¹. 2) *Balanced Approach:* While harsh discipline was permitted, it was intended to prevent moral corruption, not cause harm.
- **Formal Education:** 1) *Elite Education:* Wealthy families hired private tutors or sent children to temple schools at age five⁴². 2) *Professional Training:* Most children learned family trades, though academic learning was reserved for the privileged. 3) *Strict Teaching Methods:* Physical discipline was common, with repeated misdemeanors met with severer punishments⁴³.

3.2. The Rights conferred upon Child in Western Ancient Legal Systems

Western ancient legal systems shared fundamental similarities with Eastern systems in conferring basic rights to children, though certain protections were more restricted in scope.

2.2.1. The Right to Life

In Greek legal traditions, no explicit decrees addressed abortion. However, Greek philosophical discourses, which supported the abortion, exposed societal attitudes. These thinkers justified abortion in cases where: 1) The mother's health was at risk, or 2) The child resulted from adulterous unions, particularly incestuous relationships⁴⁴. Roman legal traditions similarly lacked explicit prohibitions on abortion; nonetheless, it was socially denounced as morally unacceptable⁴⁵.

The right to life in Greek society was depending upon physical soundness. Newborns (boys and girls) underwent immediate examination: 1) Healthy infants were retained by the family. 2) Infants with incapacities were abandoned (usually bare in the wilds)⁴⁶. In Rome, the paterfamilias held absolute authority over a newborn's fate: 1) The father recognized the child by lifting it from the ground, thereby conferring legal status. 2) Unrecognized infants—particularly female newborns—were abandoned. 3) Mothers or enslaved wet-nurses were summoned to care for recognized female infants⁴⁷. Thus, a child's right to life was exclusively dependent on paternal decision, efficiently granting fathers authority over life and death from birth.⁴⁸

3.2.2. The Right to Lineage and Naming

In ancient Greece, a healthy newborn was: 1) Recognized formally by the father on the tenth day post-birth through religious rites. 2) Named using established familial names⁴⁹, and registered in the family genealogy⁵⁰.

For Greeks, procreation was a primary marital objective, thus, they enacted these norms: **1)** Sterile women faced divorce. **2)** Sterile men could recruit a male relative to father a child, who was then legally attributed to the husband⁵¹.

In Rome, valid lineage was exclusively attached to marriage⁵². Parents selected names that: **1)** Were sound auspicious. **2)** Were distinguishable within the family. **3)** Reflected social status⁵³.

3.2.3. The Right to Healthcare

Ancient Greek customs mandated maternal breastfeeding for two to three years⁵⁴.

In Rome, a father's recognition of newborn entitled the child to: **1)** Maternal or wet-nurse breastfeeding for three years. **2)** By the late Republican era, mothers were legally obligated to breastfeed without relying on caregivers⁵⁵. Parental responsibilities extended beyond physical care to include: **1)** Psychological nurturing (raising children in loving environments). **2)** Medical treatments for respiratory ailments, pain, and spasms. **3)** Immunization practices, such as controlled exposure to snake venom to build resistance⁵⁶.

3.2.4. The Right to Education and Learning

- **In ancient Greece**, education was reserved for living children and arranged as follows: **1)** Family-based early education. **2)** State-sponsored training from age seven: **A)** Boys were separated from families for military and civic training. **B)** Girls remained at home under maternal instruction⁵⁷.

- **In ancient Rome**, Education was a paternal obligation to the state. The patriarchal Roman family operated under the father's authority, with mothers confined to domestic duties. Educational priorities included: **1)** Respect for elders. **2)** Civic duties and rights⁵⁸. **3)** Gendered curriculum: Boys received formal education; girls were excluded⁵⁹. Roman education occurred in two stages: **1) Ages 0-6:** A primary tutor taught: **A)** Basic Roman and Greek language skills. **B)** Social conduct (accompanied outdoors for moral instruction). **2) Ages 6+:** A secondary tutor focused on: **A)** Reading, writing, and arithmetic. **B)** Rhetoric and pronunciation refinement. **C)** Performance supervision by a final tutor⁶⁰.

4. Conclusion

This study demonstrates that ancient legal systems—both Eastern and Western—prioritized child protection, albeit within the socio-cultural restraints of their eras. Marriage served as the foundational institution for family formation and procreation, with legal frameworks regulating familial relations and child rights.

- Key Findings:

- 1) **Marriage as the Basis of Family:** Both Eastern and Western systems institutionalized marriage to legitimize procreation and secure child rights.
- 2) **Differential Child Rights in the East:** Egyptian and Mesopotamian systems provided comprehensive protections, though class distinctions persisted. Life rights were fundamental, with healthcare, education, and lineage deriving from this core protection.
- 3) **Restricted Child Rights in the West:** Greek and Roman systems conditioned life rights on physical soundness (Greece) or paternal recognition (Rome). Infanticide and abandonment were legally permissible under specific conditions.

- Recommendations:

- 1) **Child Protection as a Societal Imperative:** Since child rights are inherent to human society, their preservation—both physical and moral—must be enshrined within family and societal structures.
- 2) **Awareness and Education:** Disseminating knowledge of child rights—beyond mere instruction—is essential for families and communities, as children are inalienable members of these units.

Ethical Considerations

This study is based exclusively on historical, legal, and textual analysis utilizing secondary academic literature and publicly accessible ancient legal codes. No human subjects, personal data, or contemporary minors were involved in the research. All interpretations of historical legal practices are undertaken with respect to cultural context and are not intended to impose modern moral judgments upon ancient societies.

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Conflict of Interest Declaration

The author states that there are no competing interests, financial or otherwise, that could have influenced the outcomes or interpretations presented in this research. The author alone is responsible for the content and writing of this article.

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Footnotes

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- ¹⁰ Hind al-Mu'addali, *Marriage in Divine and Positive Legislations*, first edition, Dar Qutayba for Printing, Publishing, and Distribution, Beirut, Lebanon, 2002, pp. 67–68.
- ¹¹ Abdul Latif Ahmad Ali, *Roman History*, first edition, Dar al-Nahda al-Arabiyya, Beirut, Lebanon, 2011, p. 230.
- ¹² This refers to the fact that marriage was conducted according to class level, so marriage between the nobility and the commoners was not permissible; subsequently, this prohibition was abolished, allowing marriage between them, with the exception of the senatorial class and marriages between slaves and their masters.
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